

REMARKS

Claims 1 through 22 were pending in this Application, of which claims 6 through 17 stand withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b). Accordingly, claims 1 through 5 and 18 through 22 were active.

Claim 1 has been amended and claims 18-22 have been cancelled by way of the present amendment. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure. Applicants submit that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

Claims 1-5 and 18-22 were rejected under 35 U.S.C. § 103 for obviousness predicated upon Gates et al. (U.S. Pat. No. 6,603,204, hereinafter “Gates”) in view of Watanabe et al. (U.S. Pat. App. Pub. No. 2002/008323, hereinafter “Watanabe”). Applicants respectfully traverse.

There is a substantial difference between the claimed semiconductor device and Gates’s semiconductor device such that even if Gate’s semiconductor device is modified with Watanabe, as suggested by the Examiner, the claimed subject matter would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). This is because amended claim 1 requires that the distance between the first metal interconnect and the second metal interconnect is smaller than the distance between the first via plug and the second via plug. No such structure is disclosed or suggested by either of the applied references.

Moreover, capacitance between adjacent metal interconnects this close to one another would permit noise to degrade the signal transmitted by the interconnects. However, with the present claimed subject matter, since the etching stopper is located between the first and second

metal interconnects, the capacitance between the adjacent interconnects is reduced and, therefore, the signal is less affected by noise. It is respectfully submitted that neither Gates nor Watanabe teaches the claimed structure of amended claim 1, much less recognize the advantage of the present claimed subject matter. Applicants, therefore, submit that the imposed rejection under 35 U.S.C. § 103 for obviousness predicated upon Gates in view of Watanabe is not factually or legally viable and, hence, solicit withdrawal thereof.

Based upon the arguments submitted *supra*, it should be apparent that the imposed rejection has been overcome and that all active claims are in condition for immediate allowance. Favorable consideration is, therefore, solicited. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

 (Reg. No. 46,429)
for

Brian K. Seidleck
Registration No. 51,321

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:idw
Facsimile: 202.756.8087
Date: October 31, 2007

**Please recognize our Customer No. 20277
as our correspondence address.**